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May 24, 2023

VIA ECF

The Honorable Jennifer L. Rochon
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pear Street, Room 1920
New York, New York 10007

Re: *Genetec, Inc. v. PROS, Inc.*,
Case No.: 1:20-cv-07959 (JLR)

Dear Judge Rochon:

This firm represents Plaintiff Genetec, Inc. (“Genetec”) in the above-referenced matter. We write to respectfully request a brief extension of the deadline for opposing defendant PROS, Inc.’s motion for summary judgment, which is currently set for tomorrow, May 25, 2023.

In support of this request Genetec states that the attorney primarily responsible for this matter on behalf of Genetec is Jeffrey Upton, Genetec’s long-time U.S. counsel, who is licensed to practice in Massachusetts and whose *pro hac vice* motion is forthcoming. Mr. Upton was completing a bench trial in United States District Court in Boston on the day the summary judgment was served on May 5th, post-trial briefing in that \$30 million case concluded last Friday, May 19th, and he had hearings on a motion to dismiss and a motion for summary judgment in unrelated cases in New York and New Hampshire this past Monday and Tuesday. Mr. Upton is a solo practitioner and his court obligations in those three other matters precluded him from being able to devote attention to PROS’ summary judgment motion. Mr. Upton has been working fourteen-hour days seven days a week during the month of May, and cancelled a surgical procedure scheduled for May 18th in order to meet his client obligations.

Mr. Upton emailed PROS’ counsel, Jack Doherty, this morning requesting his assent to an extension of the response deadline, and Mr. Doherty replied that PROS would not assent to an extension.

This is Genetec’s first request for an extension of the deadline. A brief extension of the briefing schedule will not impact any other deadlines in this case or delay its ultimate resolution. It is in the best interest of the parties and the Court to have this matter fully and competently briefed before it is decided.

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For the foregoing reasons Genetec respectfully requests that the briefing schedule (Dkt. 66) be extended, and that the deadline for responding to PROS' summary judgment motion be extended until June 12, 2023, and the deadline for reply be extended to June 19, 2023.

Respectfully Submitted,

s/ Paul R. Niehaus

Paul R. Niehaus

Counsel for Plaintiff Genetec, Inc.

cc: All counsel of record *by ECF*

Plaintiff's counsel has known of the briefing schedule in this case, and today's deadline to file opposition, since the Court issued the schedule over 7 weeks ago on April 4. Plaintiff has also had sufficient time to prepare an opposition, given that Defendant's motion was filed nearly 3 weeks ago. The request for an extension was inexcusably submitted the day before the deadline to file opposition papers. Defendant opposes this request. Under these circumstances, the Court will grant a limited extension but not the full extension requested by Plaintiff, and will grant a corresponding extension of Defendant's time to file a reply. Accordingly, Plaintiff's opposition is due by **June 6, 2023**, and Defendant's reply is due by **June 20, 2023**.

Dated: May 25, 2023
New York, New York

SO ORDERED.



JENNIFER L. ROCHON

United States District Judge